

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE
2003 DEC 23 P 12:19

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D.N. KELLEY & SON, INC.,

Plaintiff,

vs.

CIVIL ACTION NO.

F/V RESILIENCE (*ex F/V BULLWINKLE*):
(O.N. No. 660487), her engines, tackle, apparel,
appurtenances, etc., *in rem*,

Defendant.
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03 12593 RWZ

**ORDER FOR APPOINTMENT
OF SUBSTITUTE CUSTODIAN**

This Court has reviewed plaintiff's *Ex Parte* Motion for Appointment of a Substitute Custodian and supporting affidavit. Upon consideration thereof, this Court has determined that the conditions for appointment of a substitute custodian exist pursuant to the terms of Rule E(4) of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure. Accordingly, it is hereby:

ORDERED, that the United States Marshal for the District of Massachusetts be, and is hereby authorized and directed upon arrest of defendant vessel F/V RESILIENCE (*ex F/V BULLWINKLE*)(O.N. No. 660487), her engines, tackle, apparel, furniture, equipment, rigging, fishing licenses, fishing history and all other necessities appurtenant thereto and belonging (hereinafter referred to as "Vessel"), pursuant to the *In Rem* Warrant of Arrest, to surrender the possession thereof to the substitute custodian named herein, and that upon such surrender the Marshals Service shall be discharged from its duties and responsibilities for the safekeeping of

said Vessel and held harmless from any and all claims arising whatever out of said substitute custodian's possession and safekeeping of the Vessel; it is further


ORDERED, that D.N. Kelley & Son, Inc., 32 Water Street, Fairhaven, Massachusetts be, and is hereby appointed the substitute custodian of said Vessel to retain the same in its custody for possession and safekeeping until further order of this Court; it is further

ORDERED, that the substitute custodian may from time to time come before this Court and suggest other matters it might undertake for the reasonable safekeeping, security and preservation of said Vessel; it is further

ORDERED, that as outlined in the custodian's affidavit, all expenses incurred by the substitute custodian for upland storage and/or wharfage, insurance, safekeeping and preservation of defendant Vessel shall be deemed *in custodia legis* expenses of the United States Marshal; and it is further

ORDERED, that plaintiff's attorney shall serve a copy of this Order upon the owner of defendant Vessel.

Dated at Boston, Massachusetts on this 23rd day of December, 2003.



United States District Judge

Submitted by:
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